

U.S. DEPARTMENT OF LABOR
Employment and Training Administration
Washington, D.C. 20210

REPORT ON STATE LEGISLATION

REPORT NO. 7
December 2016

COLORADO

Rule 13883

ADOPTED October 20, 2016
EFFECTIVE December 15, 2016

Administration

Amends the provision on exceptions to time limits to add, specifically, language on work registration and requested reports, continued claims, and initial, additional, and reopened claims. An individual must show good cause for untimely filing; however, no filing under these provisions will be allowed, for any reason, after 6 months.

Provides that an individual has 12 days to request a cancellation of a valid claim, after which a request for cancellation will be denied.

Changes the term “for good cause” when failing to file for a week of unemployment to “and has established to the satisfaction of the division that he or she exercised no control over that failure.”

Removes the term “for good cause” when failing to file for a week of unemployment at an itinerant service point to “and has established to the satisfaction of the division that he or she exercised no control over that failure.”

Provides that a week of unemployment for an individual who has failed to timely file shall be the earliest calendar week in which the individual established to the satisfaction of the division that he or she exercised no control over the circumstances of the failure to act timely (previously, shall be the calendar week in which such individual became unemployed, if the individual establishes, in accordance with these regulations, that he or she has good cause for such failure).

Deletes the provisions on Enhanced Unemployment Insurance Compensation Benefits.

Provides a waiver of regulatory restrictions (at the discretion of the division) for claimants in approved training for industries in crisis.

LOUISIANA Executive Order JBE 2016-63 ADOPTED and EFFECTIVE September 2, 2016

Extensions and Special Programs

Declares a state of emergency due to flooding and damage to the state.

Provides that, due to the extreme volume of unemployment claims to be processed, suspends for disaster-related claims and for the effective period of this order the application of:

- Louisiana Revised Statute 23:1533 which provides for claimants' benefits to be charged against base period employers for purposes of employers' tax experience rating and the protesting of such changes by employers;
- Louisiana Revised Statute 23:1552 which provides for the charging of claimants' benefits to certain employers;
- Louisiana Revised Statute 23:1600(2) and (3) to the extent they require claimants to register and search for work (does not suspend reporting to an employment office as prescribed, and the requirements that claimants be able to work and available to work); and
- Louisiana Revised Statute 23:1601(1), (2), (7)(a), (b), and (c) which provide certain disqualifications for otherwise eligible claimants. Claimants filing disaster-related claims were not discharged, nor did they quit or leave employment.

This order is effective upon signature (September 2, 2016) for those parishes already covered by the Major Disaster Presidential Declaration, dated August 14, 2016, and to those parishes covered by any subsequent expansion of the August 14, 2016 Declaration. This order applies retroactively from Friday, August 12, 2016, and continues through Monday, September 12, 2016, unless amended, modified, terminated, or rescinded by the Governor prior thereto.

MASSACHUSETTS

Rule 10689

ADOPTED and EFFECTIVE May 6, 2016

Administration

Rescinds the rules concerning the medical security plan for the unemployed.

Financing

Changes the term unemployment health insurance contributions to employer medical assistance contribution. Employer medical assistance contributions support the provision of subsidized health care services funded by the Commonwealth Care Trust Fund, the Catastrophic Illness in Children Fund, and the Health Safety Net Trust Fund. Amends several provisions, including the employer medical assistance wage base and the liability of newly subject employers.

Rescinds the provisions establishing the payment and collection of the fair share employer contribution.

Monetary Entitlement

Amends the provisions establishing standards and procedures concerning seasonal employment and the receipt of benefits by seasonal employees as follows:

- Seasonal employment means service performed by an employee for wages for a certified seasonal employer during a period or periods of less than 20 (previously, 16) weeks in a calendar year.
- Seasonal employer means an employer determined by the Director to be seasonal because it customarily operates all or a functionally distinct occupation within its business only during a regularly recurring period or periods of less than 20 (previously, 16) weeks in a calendar year due to climatic conditions or the nature of the product or service.
- Seasonal employee means an individual who has been employed by a seasonal employer in seasonal employment during a regularly recurring period or periods of less than 20 (previously, 16) weeks in a calendar year for all seasonal periods, and has been notified in writing by the employer at the time hired, or immediately following the seasonal determination made by the Director, that the individual is performing services in seasonal employment for a seasonal employer and such employment is limited to the beginning and ending dates of the seasonal employment as certified by the Director.
- Seasonal claimant means an individual who was employed by a certified seasonal employer for less than 20 (previously, 16) weeks in a calendar year and who has filed a claim for unemployment benefits.
- Seasonal determination means a certification by the Director that an employer operates all or a functionally distinct occupation within its business during a regularly recurring period(s) of less than 20 (previously, 16) weeks in a calendar year because of the nature of the product or service or because of climatic conditions.
- Less than 20 (previously, 16) weeks means a maximum of 19 (previously, 15) calendar weeks as defined by M.G.L. c. 151A, § 1(t), plus any additional days of work which total at least one work day less than the customary work week of the employer as specified on its seasonal application.
- An employer's application seeking seasonal status must attest to the fact that either the entire business operation is seasonal because it will be in operation for less than 20 (previously, 16) weeks in a calendar year, or that a functionally distinct occupation within the business is seasonal because the assigned duties or activities as a whole are identifiably distinct under the usual and customary practice of the industry and such duties or activities will be performed during a period of less than 20 (previously, 16) weeks in a calendar year due to the climate or the nature of the product or services.
- A seasonal employer shall give written notice to the Director if the certified seasonal employment equals or exceeds 20 (previously, 16) weeks in a calendar year. Such notice shall be filed within 5 days after completion of the 20th (previously, 16th) week of employment.

MICHIGAN

HB 4982
(Act No. 522)

ENACTED January 5, 2017
EFFECTIVE April 5, 2017

Administration

Provides that the unemployment agency shall issue a notification to the claimant of claimant rights and responsibilities within 2 weeks after the initial benefit payment on a claim and 6 months after the initial benefit payment on the claim. If the claimant selected a preferred form of

communication, the notification must be conveyed by that form. Issuing the notification must not delay or interfere with the claimant's benefit payment. The notification must contain clear and understandable information pertaining to all of the following:

- determinations that a person has obtained benefits to which that person is not entitled because of benefits improperly paid;
- penalties and other sanctions as provided in this enactment;
- legal right to protest the determination and the right to appeal through the administrative hearing system; and
- other information needed to understand and comply with agency rules and regulations not specified in this enactment.

Monetary Entitlement

Provides that the unemployment agency shall not use prorated quarterly wages to establish a reduction in benefits due to earning or receiving remuneration, including partial remuneration.

Overpayments

Provides that, for benefit years beginning on or after May 1, 2017, to establish fraud based on unreported earnings the unemployment agency must have in its possession the weekly wage information from the employer

Provides that an unemployment agency determination establishing fraud shall not be based solely on a computer-identified discrepancy in information supplied by the claimant or employer. An unemployment agency employee or agent must examine the facts and independently determine that the claimant or the employer is responsible for a willful or intentional violation before the agency makes a determination.

Provides that, except in the case of benefits improperly paid because of suspected identity fraud, the unemployment agency shall not initiate administrative or court action to recover improperly paid benefits from an individual more than 3 years after the date that the last determination, redetermination, or decision establishing restitution is final. Except in the case of benefits improperly paid because of suspected identity fraud, the unemployment agency shall issue a determination on an issue within 3 years from the date the claimant first received benefits in the benefit year in which the issue arose, or in the case of an issue of intentional false statement, misrepresentation, or concealment of material information in violation of section 54(a) or (b) or sections 54a to 54c, within 3 (previously, 6) years after the receipt of the improperly paid benefits unless the unemployment agency filed a civil action in a court within the 3-year (previously, within the 3-year or 6-year) period; the individual made an intentional false statement, misrepresentation, or concealment of material information to obtain the benefits; or the unemployment agency issued a determination requiring restitution within the 3-year (previously within the 3-year or 6-year) period. The time limits do not prohibit the unemployment agency from pursuing collection methods to recover the amounts found to have been improperly paid.

Provides that an unemployment agency determination that a claimant made an intentional false statement, misrepresentation, or concealment of material information that is subject to sanctions under this enactment shall not be based solely on a computer-identified discrepancy in information supplied by the claimant or employer. An unemployment agency employee or agent must examine the facts and independently determine that the claimant or the employer is responsible for a willful or intentional violation before the agency makes a determination.

NEBRASKA

Rule 2394

ADOPTED September 22, 2016

EFFECTIVE September 27, 2016

Extensions and Special Programs

Provides the regulations for the short-time compensation (STC) program, including procedures for filing a plan application, computation of benefit amounts, and requirements for employers and employees during the duration of the plan.

Provides that, for purposes of the STC eligibility once the plan has been approved, if an individual also works for some other employer, and a separation from that other employer occurs, no disqualification will be imposed on the STC claim. However, if the individual files a claim for regular benefits then that separation would be adjudicated at that time, assuming it would affect benefit eligibility.

NEW HAMPSHIRE

Rule 8779

ADOPTED March 10, 2016

EFFECTIVE February 24, 2016

Extensions and Special Programs

Establishes procedures to implement the self-employment assistance (SEA) program, known as Pathways to Work (PTW). Defines terms applicable to the SEA program, including Pathways to Work Program, New Hampshire Small Business Development Center, self-employment assistance activities, self-employed individual, and worker profiling system, as well as what constitutes an unsuitable business.

Establishes claimant requirements to be considered for the PTW Program, including that a claimant must: (1) be eligible to receive regular benefits, (2) be identified as likely to exhaust regular benefits by obtaining a statistical score of .50 or greater through the worker profiling system, (3) participate in self-employment assistance activities which include attending a self-employment orientation followed by a one-on-one interview and which are approved by the State agency, (4) actively engage on a full-time basis in self-employment assistance activities, (5) have a balance of regular benefits equal to at least 18 times the individual's weekly benefit amount and at least 18 weeks remaining in the individual's benefit year at the time of application, and (6) propose to enter a type of business that is allowable in New Hampshire.

Further, establishes—

- the process by which the applications are reviewed,

- requirements for continued weekly claim filing,
- eligibility requirements for the self-employment assistance allowance,
- program participation requirements and monitoring,
- exhaustion of program allowance,
- termination of participation in the program,
- appeal procedures for nonacceptance into the program or termination from the program following acceptance, and
- enrollment limitations--the number of individuals enrolled at any given time in the SEA program is limited to 2.5 percent of all individuals receiving regular benefits at that time.

NORTH CAROLINA

Rule 6618

ADOPTED March 15, 2016

EFFECTIVE March 1, 2016

EXPIRED November 26, 2016

Appeals

Provides that the Board of Review is no longer required to issue a written higher authority decision that includes instructions for requesting any post decision relief or reconsideration. Rescinds the rules concerning the requirements for filing a written request for post decision relief or reconsideration.

Nonmonetary Eligibility

Defines, with respect to work search, the term “application for a position” to mean supplying the information required by an employer to place an individual in a particular position or opening. Such information may include proof of the qualifications or license required by the position or opening, employment history, and personal information such as full name, Social Security number or other identification numbers, telephone number, and current address. An “application for a position” may be accomplished in whatever manner acceptable to an employer, including the completion of a designated form, the provision of a written resume, or verbally.

Establishes requirements necessary for a job contact to be counted as a “valid job contact” for work search purposes.

NOTE: These regulations were promulgated as temporary and have since expired. They were promulgated with the intent to help clarify new requirements created by the passage of North Carolina Senate Bill 15 on September 10, 2015.

SOUTH CAROLINA

Rule 3744

ADOPTED and EFFECTIVE June 24, 2016

Financing

Changes the rebuilding period for subsequent rebuilds from 5 years to 4 years for the solvency of the state unemployment trust fund.

Requires the Department of Employment and Workforce to annually calculate the income necessary to pay benefits and reach the fund adequacy target for the unemployment trust fund. The total income needed is determined as follows:

(1) Projected benefits will be determined for the next tax year in consultation with the United States Department of Labor and with annual data provided by the Congressional Budget Office, subject to subsection (2).

(2) The income needed to pay benefits and return the unemployment trust fund to the fund adequacy target may also include a solvency surcharge. A solvency surcharge shall be in effect for each tax year that the trust fund reserve is less than the fund adequacy target, as of June 30, subject to section 47-501(2)(a) of the South Carolina Code of Regulations. The aggregate amount of the solvency surcharge will be determined for each tax year to be the amount calculated to return the unemployment trust fund to the fund adequacy target within 5 years subject to the following:

(a) When actual benefits paid in the prior fiscal year are greater than the actual tax collections received in the prior fiscal year, then the cap, as defined in Section 47-500(7) of the South Carolina Code of Regulations, is triggered. For the purpose of this section, tax collections shall exclude all penalties, interests, contingency surcharges, and recording fees. Once the cap is triggered:

(i) If projected benefits for the next year are less than the cap, then the solvency surcharge shall be the difference between the cap and the projected benefits.

(ii) If projected benefits for the next tax year are equal to the cap, then no additional solvency surcharge will be added for the next tax year.

(3) The aggregate amount of the solvency surcharge for the trust fund rebuild that began with tax year 2016 will be determined for each tax year to be the amount calculated to return the unemployment trust fund to the fund adequacy target within 5 years. Once the fund adequacy target has been met pursuant to this item, future fund adequacy targets shall be met pursuant to item (4).

(4) After the fund adequacy target has been reached pursuant to item (3) or after the cap has been triggered, as described in section 47-501(2) of the South Carolina Code of Regulations, and in the prior fiscal year actual benefits paid were less than actual tax collections, then tax rates for the next tax year will be set based on returning the unemployment trust fund to the fund adequacy target within the next 4 years.

(5) If the balance of the unemployment trust fund, as of the end of the most recently completed fiscal year, is greater than the fund adequacy target, then the Department may use the surplus amount to reduce taxes in the next tax year.

(6) Notwithstanding the provisions of section 47-501(2) of the South Carolina Code of Regulations, once the fund adequacy target has been met, in subsequent tax years the solvency

surcharge shall be set in the event the unemployment trust fund balance does not meet the fund adequacy target, as of the end of the most recently completed fiscal year, as shown:

<u>Percentage the unemployment trust fund balance is below the fund adequacy target</u>	<u>Rebuilding Period</u>
More than 0.0000 percent, but less than 2.5000 percent	1 year
2.5000 percent or more, but less than 5.0000 percent	2 years
5.0000 percent or more, but less than 7.5000 percent	3 years
7.5000 percent or more	4 years

(7) In a fiscal year in which the fund adequacy target is reached, the Department will determine tax rates for the following tax year without a solvency surcharge and pursuant to South Carolina Code of Law Annotated Section 41-31-50.

TEXAS Rule 30103

ADOPTED April 6, 2016
EFFECTIVE April 26, 2016

Financing

Provides that, when a partial acquisition occurs requiring transfer of compensation experience, the employing units involved may (previously, shall) file with the Texas Workforce Commission (Agency) the information necessary to establish a contribution rate pursuant to section 204.085(a) of the Texas Unemployment Compensation Act. The submission shall be filed with the Agency within one year of the date the partial transfer was completed, if the partial transfer was completed prior to September 1, 2015. Otherwise the submission is due according to other deadlines stipulated in section 204.085(a-1) of the Texas Unemployment Compensation Act. (Previously, the required submission shall be filed with the Agency within one year of the date the partial transfer is completed.)

WASHINGTON Rule 34039

ADOPTED December 13, 2016
EFFECTIVE January 13, 2017

Nonmonetary Eligibility

Amends (partially) the definition of standby to mean you are temporarily unemployed because of a lack of work but (i) you expect to return to work with your regular employer within 4 weeks; (ii) you expect to begin full-time work with a new employer within 2 weeks; or (iii) you are temporarily unemployed due to natural disaster. You can ask to be on standby for up to 4 weeks, beginning with the date of the request.

Provides that your regular employer may ask to extend your standby status for more than 4, but no more than 8, weeks, except due to a natural disaster or in other extraordinary circumstances when applied for in writing. Standby can be approved if you have obtained a definite offer of bona fide full-time work that has a probable (previously, definite) start date within 2 (previously, 4) weeks, which includes the week of the job offer and up to 2 additional weeks. If the standby

request is part of your initial claim, standby begins with the date of the request. For standby approval, the job, however, (among other things) must be with a new employer or with a former employer to whom you are no longer attached. As a condition for the approval of standby, you must have a probable (previously, definite) return to work date for your regular employer.

Provides that standby will not be approved with your regular employer unless the employment is covered by the state unemployment insurance laws, or the comparable laws of another state, or the federal government.

Provides that, except for claimants who qualify as part-time eligible workers, standby will not be approved if you regularly work less than full-time. "Full time" means 40 hours each week or the number of hours that are full time for your occupation and labor market area.

Changes the location to register for work from your local WorkSource office to the department.

Requires claimants to actively seek work unless participating in three approved in-person job search activities through the WorkSource office or the equivalent public employment agency in the state in which you reside (previously, or local employment center), or any combination of employer contacts, or in-person job search activities, for a total of three.

Requires (previously, allowed) claimants to use job search methods that are customary for their occupation and labor market area when making a job search contact. Provides that, in addition to posting a resume, an application or contact with an employer for a job (previously, specific job) must be submitted to count as one of the required weekly job search contacts.

Redefines the phrase "in-person job search activity" to mean an activity provided or monitored through the WorkSource office or the equivalent public employment agency in the state in which you reside (previously, or local employment center) that will assist you in your reemployment efforts. It includes, but is not limited to, job search workshops, training classes, or other facilitated services provided or monitored by WorkSource staff or other affiliated agencies and approved by the local WorkSource office (previously, administrator). For claimants residing in Washington state, an in-person job search activity must be documented in the department's computer system (previously, services, knowledge and information exchange system (SKIES)) to qualify. For interstate claimants, the activity must be documented by the equivalent public employment agency (previously, in the one-stop system) in the state in which you reside.

Requires claimants to keep a record or log of their job search contacts and the in-person job search activities they receive through the WorkSource office, other affiliated agency, or equivalent public employment agency in the state in which they reside, with certain exceptions. The job search log must contain sufficient information to establish to the department's satisfaction that the job search requirements are met. The department will supply a job search log (previously, Form (EMS 10313)) to use in tracking job search activities. Claimants may use their own form or tracking method as long as it meets the specified requirements (previously, as long as all information required is recorded). Logs should be kept for at least 30 (previously 60) days after the end of the benefit year or 30 days after receiving final payment on any extension of benefits, whichever is later.

Rescinds language concerning the recording of in-person or telephone job search contacts.

Provides that, for in-person job search activities at the WorkSource office, other affiliated agency, or the equivalent public employment agency in the state in which you reside, (previously, or local reemployment center) record the date contact was made and a description of the services you received or the activities in which you participated.

Provides that employer contacts and other job search activities on your log may (previously, will) be verified by the department. (Previously, you must bring a copy of your job search log to any job search review interview (see WAC 192-180-025) for which you have been scheduled, and your log will be verified with the listed employers on a random basis.)

Eliminates job search review interviews and implements job search reviews (JSR), which is a review of claimants' job search activities by the department. At a minimum, the department will review the job search documentation, your ability to work, availability for work, and your efforts to find work. The department may also promote an active search for work by directing you to resources that will assist you with your job search efforts. Requires claimants to provide their job search log to the department when requested. The department will review your log, review your eligibility for benefits as required by RCW 50.20.010(1)(c), and, when appropriate, provide feedback on areas in which your job search can be improved. (Previously, the employer contacts and job search activities included in your log will be verified at random, and the interviewer may further verify any reported contacts at his or her discretion.)

Provides that, if the documentation shows you met the job search requirements for that week, no further action will be taken at that time except as provided in WAC 192-180-020(2). You may be scheduled for another JSR at a later date. If the documentation shows that you substantially complied with the job search requirements, you will not be scheduled for an all-weeks JSR. However, your benefits may be denied for that week and the department will issue you a work search directive explaining how your job search efforts or documentation of those efforts must be modified. If the job search documentation fails to show that you substantially complied with the job search requirements, the department will reschedule you for a second JSR in which your job search for all weeks claimed will be reviewed.

Provides that, if you fail to participate in the initial JSR, the department will determine if your failure is excused or unexcused. If you have an excused absence, the department will reschedule you for a JSR of one week of your job search documentation. You may be excused from participating in the initial JSR only for good cause including:

- Your illness or disability or that of a member of your immediate family that prevents you from participating;
- Your employment or presence at a job interview scheduled with an employer;
- Natural disaster or similar acts of nature; or
- Factors specific to your situation which would prevent a reasonably prudent person in similar circumstances from participating.

Provides that, if you have an unexcused absence, the department will schedule you for a JSR of your job search activities for all weeks claimed and deny your benefits for the week of the initial JSR unless you can show good cause for not participating.

Provides that the department will verify claimants' identity at the JSR interview. Claimants must be prepared to provide the department with sufficient information to verify their identity.

Provides that, if you fail to participate in a JSR when directed, benefits will be denied for the specific week or weeks in which you failed to participate. Benefits will be denied for failing to (a) meet the minimum job search requirements; (b) provide information about job search activities; (c) provide a copy of your job search logs upon request if you have been paid 5 or more weeks of benefits; or (d) comply with any job search directive. Such failure will be considered misrepresentation for purposes of redetermination under RCW 50.20.160(3). Such misrepresentation, however, will not be treated as fraud unless all criteria in WAC 192-100-050(1) are established. If you fail to participate in an all-weeks JSR without good cause, benefits are denied under RCW 50.20.010(1)(c) and RCW 50.20.240. The denial is indefinite and will continue until you participate in a scheduled JSR with the department.

WASHINGTON Rule 35905

ADOPTED October 7, 2016
EFFECTIVE November 14, 2016

Administration

Provides that claims and other documents may be filed or are required to be filed by using the Department's "online services."

Provides that the department will no longer assign certain days of the week on which a claimant may file a claim by telephone.

Appeals

Allows interested parties to file an appeal or a petition for hearing by using the department's online services in addition to mailing it or faxing it.

Allows interested parties to file a written petition for review by using the department's online services. The written petition, any reply to the petition for review, a petition for reconsideration, and any argument in support thereof must be filed by using the department's online services or by mailing it to the Commissioner's Review Office.

Financing

Provides that, when an employer incorrectly reports an individual's wages and a claimant's weekly benefit amount or maximum benefits payable is reduced due to a later correction in wages, the department will charge that employer for the benefits that should not have been paid, but nonetheless were paid as a result of the employer's incorrect reports, except the department will charge only for the percentage of benefits that represent their percentage of base period wages.

Monetary Entitlement

Provides that, if an employer does not report hours worked and a former employee applies for benefits, the department will estimate the hours worked as follows: (a) for Washington reportable wages, the department will divide the reported wages by the state's minimum wage in effect at the time to estimate the hours worked; and (b) for all out-of-state wages, the department will divide the reported wages by the federal minimum wage to estimate the hours worked.

Nonmonetary Eligibility

Modifies the effective date of a claim by providing that an unemployment claim will be effective on the Sunday of the calendar week in which the application for benefits is filed, or, when requested, backdated to a calendar week prior to the calendar week in which the application is filed (previously, on the Sunday of the calendar week in which the application for benefits is filed).

Modifies the definition of "conditional payments" by adding that a conditional payment also means a payment issued. A conditional payment is payment issued: (a) to a claimant after already having received benefits but during a period in which the department questions the claimant's continued eligibility for benefits; or (b) when a claimant has provided reasonable evidence of authorization to work in the United States, but the department is paying benefits pending verification by the Federal government. (Added (b) to the definition.)

Redefines the term "domestic partner" to mean: (a) two adults who have registered as a domestic partnership with the Washington secretary of state; or (b) a legal union of two persons of the same sex that was formed in and is legal in any state or jurisdiction. "Domestic partner" does not include partnerships formed by individuals of the opposite sex except as provided by RCW 26.60.030 or the equivalent law of another state. (Previously, "domestic partner" or state registered "domestic partner" meant: (a) two adults who meet the requirements of RCW 26.60.030 and have been issued a certificate of state registered domestic partnership by the Washington secretary of state.)

Provides that, when applying for benefits, claimants should be prepared to provide all of their employers during the past 18 months (previously, past 2 years). Other information may be required (previously, requested) in individual circumstances.

Provides that any employer who receives a notice of a claimant filing for unemployment benefits and has information which might make the applicant ineligible for benefits must report this information to the department at the address as indicated on the notice within 5 days (previously, 10 days), plus reasonable mailing time, if any, beginning on the date the notice was sent. If the employer does not reply within this time frame (previously, 10 days), the department may allow benefits to the individual, if he or she is otherwise eligible.

Overpayments

Provides that, if a potential overpayment exists, the department will provide a claimant with a written overpayment advice of rights explaining (among other things) in a statement that the claimant has 10 (previously, 5) days plus reasonable mailing time, if any, to submit information about the possible overpayment and whether the claimant is at fault. If the claimant does not provide the information within this time frame (previously, within 10 days), the department will make a decision based on available information about the overpayment and the claimant's eligibility for waiver.

Provides that, when a decision is issued creating an overpayment, the department will send an application for waiver if the claimant is potentially eligible, which must be completed and returned with supporting documents by the response deadline (previously, 10-day response deadline) indicated in the notice, which will be no less than 5 days plus reasonable mailing time, if any. If not provided by the deadline (previously, within 10 days), the department will make a decision about the claimant's eligibility for waiver based on available information.

Provides that, in addition to the principal amount, interest will accrue on the overpayment based on the total of the overpayment including, but not limited to, interest, penalties, court costs, charges for dishonored payments, and related charges or fees. Interest is calculated on a monthly cycle as follows: (a) for fraud overpayments, interest accrues beginning on the date the determination of fraud is effective; and (b) for nonfraud overpayments, interest accrues immediately, beginning after the due date.

Provides that a claimant may ask to repay an overpayment by offset on a valid benefit year. If the new balance available on the current benefit year is greater than the balance of the overpayment, the claimant can choose the amount of benefits to be offset from each payment. However, if the new balance available on the current benefit year is equal to or less than the balance of an overpayment on that benefit year, offset will be done at the rate of 100 percent.

Provides that the amount to be offset to repay a nonfraud overpayment will be 50 percent of benefits payable for each week claimed, or such other percentage the claimant requests, up to 100 percent of benefits payable. The percent deducted is based on the total weekly benefit amount, before deductions for such items as pensions, child support, income taxes. (Previously, for nonfraud overpayments, the amount to be deducted will be 50 percent of benefits payable for each week claimed. However, the claimant may request the overpayment be repaid at 100 percent of benefits payable for each week claimed. The 50 percent deduction is based on the total weekly benefit amount, before deductions for such items as pensions, child support, income taxes.)